

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA)	Civil Action No. 8:18-CV-376[MAD/DJS]
Plaintiff)	
v.)	
)	
\$7,064.00 in U.S. Currency)	
)	
Defendant.)	

VERIFIED COMPLAINT OF FORFEITURE *IN REM*

Plaintiff, United States of America, by its attorneys, Grant C. Jaquith, Acting United States Attorney for the Northern District of New York, and Tamara B. Thomson, Assistant United States Attorney, brings this complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure.

NATURE OF ACTION

1) This is an action to forfeit and condemn to the use and benefit of the United States of America the following currency: \$7,064.00 in U.S. Currency in violation of Title 21 United States Code, 841.

THE DEFENDANT *IN REM*

2) The defendant currency \$7,064.00 (“defendant currency”) was seized from Jami Devins on September 17, 2017, south of Plattsburgh, New York.

3) The defendant currency is presently in the custody of the United States Marshal Service in Syracuse, New York.

JURISDICTION AND VENUE

- 4) Plaintiff brings this action *in rem* in its own right to forfeit and condemn the defendant currency. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345 and over an action for forfeiture under 28 U.S.C. § 1355(a).
- 5) This Court has *in rem* jurisdiction over the defendant currency under 28 U.S.C. § 1355(b). Upon the filing of this complaint, the plaintiff requests that the Court issue an arrest warrant *in rem* pursuant to Supplemental Rule G(3)(b), which the plaintiff will execute upon the property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).
- 6) Venue is proper in this district pursuant to 28 U.S.C. §§ 1355 and 1395, because the acts or omissions giving rise to the forfeiture occurred in this district.

BASIS FOR FORFEITURE

- 7) The defendant currency is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6). 21 U.S.C. § 881(a)(6) provides for the forfeiture of:

all moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of 21 U.S.C. §§ 801 et seq., all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of 21 U.S.C. §§ 801, *et seq.*

Id.

FACTS

- 8) The facts alleged in this complaint are based upon information and belief, the sources of which are reports from the Drug Enforcement Administration (“DEA”), and other written and oral information officially received by the Office of the United States Attorney for the Northern District of New York.

9) On September 14, 2017, at approximately 3:00 p.m., a yellow Penske truck driven by Phillip Wells (hereinafter “Wells”) approached the High Peaks Immigration Traffic Checkpoint in North Hudson, New York. The Border Patrol agent (BPA) that was assigned to primary inspection, identified herself and questioned the three occupants of the vehicle. The passengers were Jami Devins (hereinafter “Devins”) and Marcus Reeves (hereinafter “Reeves”).

10) Border Patrol K-9 officer “Beila” is certified in detection of concealed humans, cocaine, and it’s derivatives, heroin and its derivatives, heroin and it’s’ derivatives, marijuana and its derivatives, ecstasy and methamphetamines).

11) Beila was allowed to perform an exterior non-intrusive, free-air sniff of the vehicle. Beila alerted to the vehicle. Following Beila’s alert, the vehicle was sent to a secondary inspection area.

12) Once the three occupants of the vehicle were in the secondary inspection and safely seated away from the vehicle, Beila performed a complete search of the vehicle. Beila alerted and indicated to the middle of the passenger compartment. Located in the middle of the passenger compartment was a tan Michael Kors purse. Inside the purse were the following:

- a) Two small plastic bags containing numerous pills;
- b) One prescription pill container without a label containing pills;
- c) One small cloth bag containing a straw (the type used to “snort” drugs) along with numerous other pills;
- d) Midol bottle containing several pills;
- e) \$7,064.00 in U.S. Currency.

13) The pills were determined to be a mix of Hydrocodone, Oxycodone, and Methyl Hydrocodone as follows:

- a) 229-10mg Hydrocodone pills;

- b) 52-10mg Oxycodone pills;
 - c) 27-10mg Methyl Hydrocodone pills;
 - d) 3.5-5mg Oxycodone pills; and
 - e) 1-60mg Hydrocodone pill.
- 14) A marijuana smoking device, along with a trace amount of hash oil, were also located in a separate bag.
- 15) Devins and Reeves were placed under arrest for Possession of Narcotics and escorted to the checkpoint for processing.
- 16) Reeves gave a written statement and claimed ownership of the “dab” pen and pills. Reeves stated: “The ‘dabs’ are mine and some of the pills. I share the pills with my girlfriend Jami.” Reeves made no statement about ownership of the defendant currency.
- 17) Devins provided a written statement:

“Myself, my boyfriend Marcus Reeves and Phillip Wells we all work together and scrap metal business, that’s called PAWS scrap recycling. We go to Massachusetts to bring scrap metal to Apkins, which is a mill in Adams, Massachusetts. We picked up he rental truck at Taylor Rental in Plattsburgh, we left Marcus’ gray Chevy 4 door 2500 HD there at Taylor Rental. We got on 87 and came south and saw the signs saying be prepared to stop, we didn’t think we drove up to the border patrol and stopped. A Border Patrol lady came to our window and the K9 had scented something so they asked us to pull to the side. We pulled over and got out. The dog walked around the truck and then got in the front last. The dog found the stuff, meaning my pills. I’m addicted to them, I buy 5 or 6 scripts a month from different people. The pills were in my purse which is tan its Michael Kors. The pills are mine and Marcus’ we do them together, I don’t want him to get in trouble. The money belongs to Marcus and I. I hold it in my wallet and I can spend it. The truck was rented by Phil, I’m not sure if he rented it for a day or two. We always rent from Taylor Rental in Plattsburgh, we get the same truck every now and again, a lot of time it’s different. There was two bags of pills and one pouch.”

POTENTIAL CLAIMANTS

18) On or about December 28, 2017, the Drug Enforcement Administration received an Administrative Claim from Marcus Reeves for the defendant currency.

19) Upon information and belief, the following person/s who may claim an interest in the defendant currency are not in the military service, are not infants and are not incompetent persons

WHEREFORE, the United States of America prays that process of issue in due form of law, according to the course of this Court in actions in rem, against the defendant currency and that a warrant issue for the arrest of the defendant as more particularly described herein; that all persons having any interest therein be cited to appear herein and answer the complaint; that a judgment be entered declaring the defendant condemned and forfeited to the United States of America for disposition in accordance with law; that the costs of this suit be paid to and recovered by the United States of America; and that the United States be granted such other and further relief as this Court may deem just and proper.

Dated: March 27, 2018

GRANT C. JAQUITH
Acting United States Attorney

By: /s/ Tamara B. Thomson
Tamara B. Thomson
Assistant United States Attorney
Bar Roll No. 515310

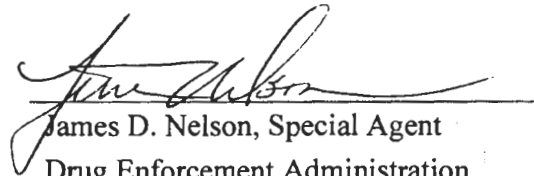
VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF CLINTON)

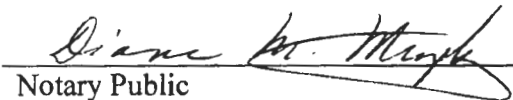
James D. Nelson, being duly sworn, deposes and states:

I am a Special Agent with the Drug Enforcement Administration. I have read the foregoing Complaint for Forfeiture and assert that the facts contained therein are true to the best of my knowledge and belief, based upon knowledge possessed by me and/or on information received from other law enforcement officers.

Dated this 27 day of March, 2018.


James D. Nelson, Special Agent
Drug Enforcement Administration

Sworn to and subscribed before me this 27th day of March, 2018.


Notary Public

DIANE M. MURPHY
Notary Public, State of New York
No. 01MU6081376
Qualified in Clinton County
Commission Expires October 7, 2018

CIVIL COVER SHEET

8:18-CV-376

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff Albany
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Tamara Thomson, Assistant U.S. Attorney (315) 448-0672
United States Attorney's Office, 100 South Clinton Street
Syracuse, New York 13261

DEFENDANTS

\$7,064.00 in U.S. Currency

County of Residence of First Listed Defendant Clinton
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)
Daniel Tedford, Esq. 518-783-3883
7551 Court Street, Elizabethtown, New York 12932

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
21 USC 881

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

03/27/2018

s/Tamara B. Thomson

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT Waived APPLYING IFP _____ JUDGE MAD MAG. JUDGE _____ DJS _____